

Message Text

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PAGE 01 TOKYO 08412 110302Z
ACTION EA-12

INFO OCT-01 ISO-00 NRC-07 COM-04 SOE-02 AID-05 CEA-01
CIAE-00 DODE-00 EB-08 H-02 INR-10 INT-05 L-03
NSAE-00 NSC-05 OMB-01 PM-05 ICA-20 OES-07 SP-02
SS-15 STR-07 TRSE-00 ACDA-12 /134 W
-----066314 110853Z /10

R 110250Z MAY 78
FM AMEMBASSY TOKYO
TO DOE GERMANTOWN MD
DOE WASHDC
INFO SECSTATE WASHDC 7811

UNCLAS TOKYO 08412

E.O. 11652: N/A
TAGS: TECH, JA
SUBJECT: GEOTHERMAL AGREEMENT

DOE FOR MC DONOUGH, IZELL, WILLIT

REF: (A) TOKYO 1746, (B) MAR 14 MEMO MC DONOUGH TO HENoch, (C) MAY
4 TWX KUBOKAWA TO IZELL, (D) FEB 24 LTR VANDERRYIN TO KUBOKAWA

1. EMBASSY PROVIDED AIST WITH INFO IN REF B SPECIFICALLY PARA A,
UPON RECEIPT, MAY 21. EVEN WITH ATTACHED LEGAL EXPLANATION TO
REF D, KUBOKAWA STILL HAS QUESTION ABOUT ARTICLE 12(2) AND 12(3).
2. FIRST QUESTION: ARE ARTICLE 12(2) AND 12(3) BACKED UP BY
US LAW? IF NOT, AIST BELIEVES ARTICLE 12(2) AND (3) SHOULD BE
REVISED.
3. SECOND QUESTION: AIST UNDERSTANDS THAT WRITTEN LAW RELATED
TO THESE ARTICLES MAY NOT EXIST. IN SUCH INSTANCE WHAT CASE LAW
WOULD BE APPLICABLE.
4. EMBASSY UNDERSTANDS KUBOKAWA HAS ASKED THESE QUESTIONS IN REF C

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PAGE 02 TOKYO 08412 110302Z

IN MORE DETAIL AND IN LEGAL LANGUAGE. BEFORE MITI CAN SIGN GEO-
THERMAL AGREEMENT IT MUST IDENTIFY U.S. CASE LAW CONSISTENT WITH
ARTICLE 12(2) AND (3).

5. IF DOE UNABLE TO PROVIDE REQUESTED LEGAL BACKUP, AIST REQUESTS
FIRST PARAGRAPH ARTICLE 12 BE REVISED TO READ: QUOTE

BOTH PARTIES AGREE THAT COMPENSATION FOR DAMAGES INCURRED DURING THE CONDUCT OF ACTIVITIES UNDER THIS ARRANGEMENT SHALL BE MADE IN ACCORDANCE WITH THE LAWS OF THE COUNTRY ON WHOSE TERRITORY DAMAGES WILL HAVE BEEN INCURRED AND THAT FOLLOWING PROVISIONS SHALL APPLY AS FAR AS CONSISTENT WITH THE OPERATIVE LAW OF THE RECEIVING PARTY. UNQUOTE.

6. REQUEST DOE CONCURRENCE, COMMENTS. MANSFIELD

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NNN

Message Attributes

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TAGS: TECH, JA
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